

APPLICANTS:
Jonathan and Jill Ruff

**REQUEST: Variance to permit an addition
within the required rear yard setback in
the Agricultural District**

HEARING DATE: July 20, 2006

**BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS
Case No. 5545**

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Jonathan Philip Ruff

CO-APPLICANT: Jill Leslie Ruff

LOCATION: 2402 Thomas Run Road, Bel Air
Tax Map: 34 / Grid: 4F / Parcel: 419
Third (3rd) Election District

ZONING: AG / Agricultural

REQUEST: A variance pursuant to Section 267-34C, Table II, of the Harford County Code, to permit an addition to maintain a 57 foot rear yard setback (80 foot required) in the Agricultural District.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicants testified Jonathan P. Ruff, who is requesting a 23 foot variance to the required 80 foot rear yard setback.

Mr. Ruff described the property owned by he and his wife as being approximately 1 acre in size, and improved by a farm house built in the late 1800's. Surrounding the subject property is a family owned farm which is in agricultural preservation. The property is accessed by a 25 foot right-of-way from Thomas Run Road. Mr. Ruff described the family-owned farm which surrounds the subject property as being approximately 400 acres in size.

The subject property also is serviced by a one acre septic reserve area which is off-site, located within the family farm area.

Mr. Ruff described the existing farmhouse as a two and a half story building with an addition built in the 1980's. The house has two bedrooms. The Applicants wish to construct an addition containing a family room, bedroom and bath. Mr. Ruff explained that the addition could not be constructed to the front of the house as that area is improved by the existing septic system. To the east of the house is located a utility pole and underground utilities which precludes the construction of an addition in that area. The remaining side is improved by the existing driveway which would make it impractical to construct the addition in that location.

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The new addition would have dimensions of about 22 feet by 36 feet. Accordingly, given the existing 80 foot rear yard setback, a variance of approximately 23 feet is requested.

There are no residential structures to the rear of the house which would be impacted by, or even have a view of, the proposed addition. There is existing vegetation in that area. Mr. Ruff has spoken to the neighbors and none has expressed any opposition.

Mr. Ruff also testified that his architect is of the opinion the only practical location for the addition is as proposed.

Next for the Harford County Department of Planning and Zoning testified Anthony McClune. Mr. McClune explained that the surrounding Ruff Farm is in the State Agricultural Easement Program. The subject property was a lot which was allowed to be subdivided from that program as a child's lot. It is somewhat unique in that it is one acre in size, with a one acre off-site septic reserve area, and the lot has no frontage on Thomas Run Road.

Mr. McClune stated that the lot is exceptionally small as the State program only allows a one acre lot to be subdivided.

The property to the rear of the subject property is wooded. The location would have no adverse impact on any adjoining property.

Mr. McClune believes that the lot is unique. The dwelling is very small compared to other dwellings in the area and the requested variance made is a reasonable one.

There was no testimony or evidence given in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

(1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.

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(2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Unquestionably, the subject property of the Applicants is an unusual parcel. Because the farm from which the subject property was subdivided is encumbered by an Agricultural Preservation Easement, the parcel upon which the Applicants live is one acre in size only, which is considerably less than the Harford County minimum lot size standard for this district. An off-site one acre septic reserve area is also recorded. The property also has no frontage on Thomas Run Road, being serviced by a 25 foot right-of-way. All in all, a very unusual lot to have been created post 1957.

The Applicants suggest that the planned addition would be a beneficial improvement to the home. It is obvious, based on the Applicants testimony and the photographs in the file, that the existing home is a relatively small one for the area, and that an addition would do nothing more than modernize the home and make it one which is more comparable to other homes in the area.

It is further found that due to the existing lot restrictions, the location of the septic reserve area and existing septic system, utility poles, and location of the driveway, the only appropriate location for the addition is to the rear of the property. Being impacted by an 80 foot rear yard setback it would be impossible to construct such an addition without the variance requested. It is also further found the addition proposed is a modest one, not unusual for the area, would improve the value of the property and the Applicants enjoyment thereof, and would have no adverse impact on any adjoining neighbor.

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It is further found that the relief requested is the minimum necessary to alleviate the Applicants' hardship.

CONCLUSION:

For the above reasons, it is recommended that the requested variance be granted, subject to the Applicants obtaining all necessary permits and inspections for the proposed addition.

Date: August 30, 2006

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on SEPTEMBER 28, 2006.